

UNITED STATES DISTRICT COURT

for the

Middle District of Georgia

United States of America

v.

Donald Sherman

Case No.

Defendant(s)

RECEIVED
U.S. Bankruptcy Court

DEC 15 2017

Middle District of Georgia

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of December 14, 2017 in the county of Muscogee in the
Middle District of Georgia, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. Sect. 641

Theft of Government Property

18 U.S.C. Sect. 922(a)

Unlawful Possession of a Silencer/Suppressor

This criminal complaint is based on these facts:

SEE Attached affidavit

☒ Continued on the attached sheet.


Complainant's signature

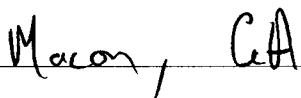
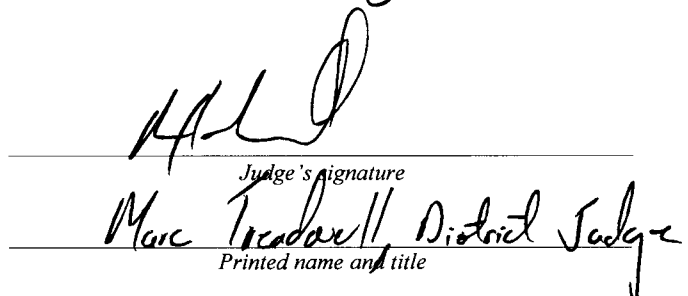


Printed name and title

Sworn to before me and signed in my presence.

Date: 12/15/2017

City and state:

Judge's signature

Printed name and title

AFFIDAVIT

Affiant, Scott Sengenberger, a Special Agent with the Federal Bureau of Investigation since June 2015, has investigated violations of Title 18, United States Code, Section 641 (Theft of Government Property), and various violations of federal firearms law. I am presently assigned to the Atlanta Field Office, Macon Resident Agency.

I make this affidavit in support of a criminal complaint. The affidavit is based on my training and experience and on information which has been provided to me by other Special Agents of the Federal Bureau of Investigation.

After being duly sworn, I affirm as follows:

Facts Establishing Probable Cause

CW1

1. On or about November 30, 2017, FBI was contacted by the United States Army Criminal Investigation Command (CID) regarding the alleged theft of government property by two cooperating individuals. Subsequent investigation revealed that both individuals had knowingly sold stolen government property from Fort Benning, Georgia, to Donald Kirby Sherman, owner of Tier 1 Gear, and Army/Navy Surplus Store, located at 4010 Victory Drive, Columbus, GA, 31903.
2. Fort Benning Military Reservation is located within the special maritime and territorial jurisdiction of the United States, on land acquired for the use of the United States, and under the exclusive jurisdiction of the Columbus Division of the Middle District of Georgia.
3. The first cooperating individual (CW1) was interviewed by CID agents on November 30, 2017. CW1 advised he/she began stealing items from Fort Benning some time in 2016, in order to support his/her addiction to methamphetamine. CW1 devised a plan to steal Operational Camouflage Pattern (OCP-multicam) uniforms from the Clothing Initial Issue Point (CIIP), 3rd Infantry Division Road, Building 3010, Fort Benning, GA, and sell them to an individual CW1 met on the Facebook marketplace. CW1 broke into the CIIP on four to six occasions, each time taking a 50 gallon trash bag filled with 20 to 25 complete OCP uniforms. CW1 also admitted to stealing approximately 15-20 OCP uniforms, and five Advanced Combat Helmets (ACHs) from the Central Issues Facility (CIF), located at 9200 First Division Road, Building 9055, Fort Benning, GA. Each helmet was valued at approximately \$273.40, for a total estimated loss of \$1,367. According to CID, each complete uniform was valued between \$80 and \$100. The total loss amount for the uniforms was estimated between \$11,200 and \$17,000.

4. On four to five occasions, CW1 met this unknown individual at various locations in Columbus, GA, and on two occasions in Phenix City, AL, to facilitate the sale of these stolen items. CW1 estimated he/she was paid approximately \$3,000 to \$4,000 for all items. CW1 further advised he/she informed the unidentified individual by phone and text that all of the items were stolen and not privately owned.
5. CW1 was later arrested by CID on drug related charges, and during this investigation, CID executed a search of CW1's cell phone, which was issued by a military magistrate. Based upon this search, CID identified phone number (706) 566-7770, as the number associated with the individual who purchased the stolen equipment from CW1. CID then discovered through an online search, that this cellular phone number resolved back to Donald Kirby Sherman, 260 Lee Road 746, Salem, Alabama, 36874, owner of Tier 1 Gear.

CW2

6. On or about November 30, 2017, CID was notified by Sgt. Robert Mixon, 4th Ranger Training Battalion (RTB) of an alleged larceny of unit property. At the time, Mixon was an armorer assigned to the RTB. Mixon indicated he had been recently approached by Specialist Daynel Gordon, who stated that his roommate, CW2 (cooperating witness-2), attempted to sell him a "high dollar value item." CW2 was also assigned as an assistant armorer for the RTB, and worked under Mixon. Gordon inquired as to what the item was, and CW2 advised it was a Trijicon Advanced Combat Optical Gunsight (ACOG) M150. The approximate cost of this item to the U.S. Army was \$1225. Based upon this information, Mixon conducted a complete inventory of the 4th RTB arms room, and discovered that one ACOG M150, serial number 732750, was missing. Also missing were four Bushnell Elite 1500 Laser Range Finders and 913 magazines for the M4 rifle. The total calculated loss was over \$10,000.
7. CW2 was subsequently interviewed by CID on December 5, 2017, and admitted to taking the ACOG M150 from the arms room and approximately 300 to 400 magazines. CW2 removed the ACOG M150 from the arms room sometime during the first week of November 2017, and took the magazines from the 4th RTB motor pool the last week of October 2017 or the first week of November 2017. The magazines were new and had been placed in seven white boxes.
8. Sometime thereafter, CW2 took the items to Tier 1, where he met with the owner. CW2 did not know the owner's name at the time, but described him as a white male, who spoke with a deep voice, and was between 45 to 55 years of age. Further investigation has determined that the owner of Tier 1 is Donald Kirby Sherman, a white male, who is 50 years of age. Sherman paid CW2 \$3.00 apiece for each magazine, and \$400 for the ACOG, totaling approximately \$1300 to \$1600. CW2 informed Sherman that all of the items were "unaccounted for," but Sherman did not seem to mind. At the conclusion of their


transaction, Sherman informed CW2 that he was willing to purchase more ACOGs, magazines, and weapons parts, to include rifle rail systems.

9. CW2 agreed to cooperate with this investigation, and placed a consensually recorded phone call to Sherman on December 12, 2017, at (706) 566-7770. During the call, Sherman agreed to purchase 18 to 20 ACOG scopes from CW2, along with approximately 300 M4 rifle magazines. CW2 agreed to meet with Sherman on Thursday, December 14, 2017, at Tier 1 Gear, in order for Sherman to purchase the purportedly stolen government equipment from CW2.
10. On Thursday, December 14, 2017, Sherman and CW2 agreed to meet in a parking lot, rather than the originally agreed upon location. Sherman purchased the allegedly stolen items and was arrested at that point. During a subsequent search of Tier 1, officers recovered suspected stolen items, as well as a Smith Enterprises 7.62, unregistered suppressor (silencer), which was possessed by Sherman in violation of Title 18, United States Code, Section 922(a).
11. Based upon the above, Affiant believes probable cause exists that Donald Kirby Sherman has purchased stolen United States property, in violation of Title 18, United States Code, Section 641, and possessed an unregistered silencer, in violation of Title 18, United States Code, Section 922 (a).



Scott Sengenberger
Special Agent, Federal Bureau of Investigation

Sworn to and subscribed before
me this 15 day of December 2017.



Marc T. Treadwell
United States District Judge